

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re Application of:

Confirmation No.: 5346

Robert BARRITZ, et al.

Date: December 31, 2007

Serial No.: 09/518,048

Group Art Unit: 2134

Filed: March 2, 2000

Examiner: Matthew E. HENEGHAN

For: METHOD AND PROCESS FOR DISPLAYING SOFTWARE PRODUCT
INVENTORY AND USAGE INFORMATION CORRELATED WITH
LICENSE AGREEMENT INFORMATION

VIA EFS WEB

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Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

REPLY TO EXAMINER'S ANSWER MAILED OCTOBER 30, 2007

Sir:

This Reply is in support of the Appeal Brief filed on September 6, 2007 and concerns the propriety of the Examiner's final rejection mailed March 6, 2007 in connection with the above-identified patent application and Examiner's Answer mailed October 30, 2007.

A. Response to Section 9 of the Answer

This Reply separately addresses two points raised in the Examiner's Answer in connection with Franklin et al. ("Franklin," U.S. Patent No. 6,105,069). First, applicants respectfully disagree with the Examiner's statement on page 4 that Franklin discloses "a procedure that retrieves licensing information from ... resources." Second, applicants disagree with the Examiner's statement that Franklin discloses embodiments wherein Franklin's invention or "product" is used "rather than for the direct execution of a software product." Further, this reply addresses the Examiner's silence with regard to a feature defined in applicants' claims.

Although Franklin is very broadly described in terms of its functionality, applicants submit that Franklin's system in its essence requires the Novell networking system ("Novell"). This is clearly indicated as a function of Franklin's NAL, which is well-known to be a functional component of Novell and a requirement for the distribution, operation and maintenance of application software and resources distributed over a Novell network.

1. Franklin Does Not Disclose Retrieving Licensing Information From A Resource.

Respectfully, the Examiner's Answer relies on a mischaracterization of the teachings and scope of Franklin both with respect to particular passages cited the Examiner and to Franklin's complete disclosure, more generally.

Franklin regards a licensing controller for network directory services ("NDS"). Any NDS (including Franklin's preferred Novell NDS) requires a database "schema" that stores information about software and hardware resources that are available to users over a network. Particularly, Franklin teaches use of a Network Application Launcher ("NAL") that, via the NDS, enables a user to install and/or run a software product. In particular, Franklin states,

[t]he present invention's methods and apparatus for centrally managing application programs in a computer network, improve a Network Application Launcher (NAL) by modifying a database schema and executables (utilities) for managing its information. The database schema defines resources that can be represented, so network administrators have an efficient and effective way to make resources available on the network. Controlling organization, linking, rights assignments, and licensing or other access to a resource may be done simply, and transparently to network users, or groups of users, needing particular network resources. (Franklin, column 2, lines 16-28).

In short, Franklin regards an improved NAL by "modifying" the NDS database schema, and includes "executables (utilities)" for managing the information in the schema (Franklin, column 2, lines 16-28). Franklin's NAL references the database schema to determine whether the software product should be made available to a user seeking access in accordance with license terms.

Franklin's database schema is broadly described, and can be implemented in various ways, including as a function of a plurality of API's. Franklin teaches use of "application objects" 100, which are "associated" with software applications (see Franklin, column 2, lines 29-41, see also column 4, line 66 - column 5, line 10). Importantly, Franklin's application

objects 100 are “in the network directory services (DS or NDS) database” (column 2, lines 33-36, emphasis added). The application objects 100 are not the software applications (i.e., applicants’ claimed “software products”), *per se*, but instead represent applications in predefined ways in the database schema.

Franklin also teaches the use of “licensing objects,” including for example, licensing object 290, 700, 850, which are defined as one of “specialized functional objects” for a “specific special purpose” (see Franklin, column 9, lines 44-49). Franklin discloses that “a licensing object ... may be provided in the directory services data base” (Franklin, column 16, lines 44-45). In lieu of “application objects,” Franklin’s licensing objects include “licensing attributes 852 effective for providing licensing of one or more resource [(e.g., application)] objects 100” (column 16, lines 46-48).

The Examiner states at page 4 that Franklin “discloses a procedure that retrieves licensing information from the respective resources” and cites to Fig. 12 and column 14, line 12 to column 15, line 64. Applicants have carefully reviewed this cited figure and passage and respectfully submit that nowhere does Franklin teach “[retrieving] licensing information from the respective resources” as the Examiner has stated. Instead, the cited figure and passage relate to modifying the database schema and implementing licensing rules as a function of the application and/or licensing objects.

Thus, licensing attributes are not obtained from a resource in Franklin, but rather from one or more objects that represent a resource in connection with Franklin’s NAL.

2. Franklin System Requires Controlling Execution Of A Resource In Accordance With Licensing Terms

Applicants’ claim 34 defines a system for “correlating metrics associated with a plurality of software products” and “wherein the system is not operable to affect operation of any software product identified by data correlated by the third computerized software facility.”

The Examiner states that Franklin’s “product” can be used “rather than for the direct execution of a software product.” To support this claim, the Examiner states that Franklin’s product is used “for database maintenance” in which “operation of the licensed software is not essential for this functionality[.]” Applicants respectfully disagree.

Every embodiment disclosed in Franklin describes control of executing a resource. As stated Franklin's "Field of the Invention" section, Franklin provides "run control of applications, using directory services systems, as well as simplified, embedded control of application licensing with minimum effort." The invention disclosed in Franklin regards a licensing controller, notwithstanding ancillary functionality that is provided therewith.

The Examiner supports his position that Franklin does not require "direct execution of a software product," by citing to Figs. 11 and 12, and column 16, lines 12-23.

Fig. 11 represents a consumer object, which includes an "associations list 784" and identifying whether a user associated with the consumer object is licensed to access a resource. Fig. 12 describes steps associated with modifying a schema in accordance with providing a user with access to a licensed resource. Importantly, the cited passage (column 16, lines 12-23) refers to "report step 824" which is embodied in a "launch and use step 820" and may be "executed by the licensing API 219 and reported back to the licensing utility 248" (column 16, lines 8-12). Report step 824 requires a successful passage through testing step 816 (Fig. 12) that confirms that a user is authorized (i.e., licensed) to access a resource. Alternatively, a fail step 826 follows the testing step 816 in case a user does not have such authorization. Either way (steps 824 or 826), any database maintenance steps require the operation of a resource by the user (or lack thereof) that is positively affected by Franklin's product. The affecting of operations of a resource by a user is always a requirement in Franklin with regard to any resource non-operational (e.g., reporting) steps.

Therefore, the Examiner is incorrect in his assertion that Franklin does not require "direct execution of a software product."

3. Franklin Does Not Disclose "Respective Software Product API Of At Least One Of The Plurality Of Software Products"

The Examiner is silent with respect to applicants' claimed limitation that a single "respective software product API of at least one of the plurality of software products" provides both agreement data and software product data to two respective software facilities. Franklin, in contrast, teaches various application or resource objects that "represent" an application, but that are not of a software product, as defined in applicants' claim 34.

The Examiner states, at page 4, lines 3-7 of the Examiner's Answer, "Franklin further discloses that licensing objects may be implemented as API's" (see column 2, lines 62-67, column 7, lines 40 to column 8, line 8; and column 9, lines 4-20). Franklin's licensing object is not implemented, however, in a single "respective software product API of at least one of the plurality of software products" and that provides both agreement data and software product data to two respective software facilities. Instead, Franklin's licensing objects are distinctly implemented for licensing and may be "dedicated to the special function of licensing other resource [(or application)] objects 100" (Franklin, column 14, lines 66-67). Alternatively, application objects may "contain" licensing attributes that are "consumed" by executables (e.g., specially programmed dynamically linked libraries (DLL) 194 (Franklin, column 2, lines 52-56, see also column 7, lines 25-39). Unlike applicants' claim 34, however, no "respective software product API" provides both agreement data and software product data to two respective software facilities.

Further, Franklin's NAL relies upon a plurality of API's that are used with an application object. For example, Franklin states,

Similarly, licensing attributes 160 may identify authorizations, charges, and other administrative information required for licensing an application associated with an application object 100. As understood in directory services systems, an object 92 (e.g. application object 100) represents logically certain files of data or executables (e.g. an application), and each is often spoken of as the other, though they are not actually the same thing. In general, the attributes 150-160 are new specialized attributes associated with certain features corresponding to the inventions disclosed herein, and may be incorporated into the basic functional attributes 162 associated with application objects 100 in general. (Franklin, column 6, lines 21-40).

Thus, Franklin's licensing controller does not teach or suggest a "respective software product API of at least one of the plurality of software products" provides both agreement data and software product data to two respective software facilities.

CONCLUSION:

Franklin does not disclose retrieving licensing information from a resource. Further, Franklin's system requires controlling execution of a resource in accordance with licensing terms. Moreover, nothing in Franklin teaches or suggests a single "respective software product

API of at least one of the plurality of software products” that provides both agreement data and software product data to two respective software facilities.

For the reasons set forth above, and in addition to the reasons set forth in applicants’ reply brief and remarks set forth in applicants’ Office Action responses, it is respectfully submitted that all rejections to the claims in this application have been addressed to clearly define over the prior art. Therefore, the Examiner is respectfully requested to reconsider the application and allow the case to issue.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING
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Respectfully submitted,



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